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NO FEE – GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

EMALINE HARRIS, as trustee of the EDDIE &
EMALINE HARRIS REVOCABLE LIVING TRUST
DATED OCTOBER 12, 2007; and DOES 1 through
50, inclusive,

Defendants.

Case No.: **BC 6 5 5 5 2 5**

**COMPLAINT FOR ABATEMENT
AND INJUNCTION**

[CIVIL CODE SECTION 3479, *ET*
SEQ.; BUS. & PROF. CODE
SECTION 17200, *ET* SEQ.]

[Unlimited Action]

1 PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA, alleges as follows:

2 I. INTRODUCTION

3 1. This action ("Action") is brought and prosecuted by Plaintiff, the People of the
4 State of California ("People"), for the purpose of abating, preventing, and enjoining a gang-
5 related public nuisance that exists at a property with addresses commonly known as 709, 711,
6 and 711 ½ W. 54th Street (the "Property"). The Action is brought pursuant to the Public
7 Nuisance Law ("PNL"), California Civil Code sections 3479, *et seq.*, and the Unfair Competition
8 Law ("UCL"), California Business and Professions Code sections 17200, *et seq.*

9 2. The Property, which is located in Vermont Square of South Los Angeles on a
10 residential street, consists of three separate bungalows that share a common driveway. The
11 bungalow located furthest from the street has a parking area in front of it ("Parking Area").

12 3. For at least the past three years, the Property has been, and currently is, a
13 stronghold for two allied gangs, 51 Nothing But Trouble Gangsters and 52 Hoover Gangster
14 Crips (collectively, the "Gangs"). Gang members and associates use the Property, including
15 the bungalows, the Parking Area, and the driveway to store firearms, use narcotics, tag gang
16 graffiti, play loud music, and otherwise "hang out" in large numbers to intimidate the community
17 and claim the Property. Some of the lawful residents of the Property have ties or are otherwise
18 connected to the Gangs. The residents who do not appear to have any ties to the Gangs,
19 however, have been terrorized by such activity, as well as by direct verbal threats and the
20 destruction of personal property. In just the past two years, there have been multiple arrests
21 at, and at least four firearms recovered from, the Property. Given that the Property attracts
22 armed gang members and associates, it is not surprising that there was a shoot-out in May
23 2016 between at least two parties in front of the Property and the adjacent properties wherein
24 an individual was shot, along with surrounding vehicles and residences. As recently as
25 February 2017, Los Angeles Police Department ("LAPD") officers observed the Gangs'
26 members and associates "hanging out" in the driveway and in the Parking Area of the Property
27 on two separate occasions, respectively, and recovered firearms on both occasions.

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1 4. The violence and chaos at the Property occurs perilously close to six schools,
2 two parks, and one church, all of which are located within a half mile radius of the Property.

3 5. The Property is owned by EMALINE HARRIS, as trustee of the EDDIE &
4 EMALINE HARRIS REVOCABLE LIVING TRUST DATED OCTOBER 12, 2007 ("Defendant").
5 Defendant has owned the Property since at least August 16, 1989 either in her capacity as
6 trustee or as a joint tenant with her now-deceased husband.

7 6. This nuisance abatement prosecution is intended to bring the unacceptable state
8 of affairs at the Property to a halt; to make the Property inhospitable to the gang members and
9 associated criminals who now freely use it to intimidate and harass the community; and to
10 make the Property safe for the people who live in the surrounding area.

11 II. THE PARTIES AND THE PROPERTY

12 A. The Plaintiff

13 7. Plaintiff, the People, is the sovereign power of the State of California designated
14 in California Code of Civil Procedure section 731 to be the complaining party in actions brought
15 to abate, enjoin, and penalize narcotics nuisances and public nuisances, respectively.
16 Furthermore, the City of Los Angeles has a population in excess of 750,000, and as such,
17 California Business and Professions Code section 17204 authorizes Plaintiff, the People, to
18 prosecute actions for relief under California Business and Professions Code section 17200, *et*
19 *seq.* for unfair competition.

20 B. The Defendants

21 8. Defendant EMALINE HARRIS, as trustee of the EDDIE AND EMALINE HARRIS
22 REVOCABLE LIVING TRUST DATED OCTOBER 12, 2007, has been the record owner of the
23 Property since at least May 7, 2008 and prior to that owned the Property as a joint tenant with
24 her now-deceased husband since August 16, 1989.

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1 9. The true names and capacities of defendants sued herein as Does 1 through 50,
2 inclusive, are unknown to Plaintiff, who therefore sues said defendants by such fictitious
3 names. When the true names and capacities of said defendants have been ascertained,
4 Plaintiff will seek leave of Court to amend this complaint and to insert in lieu of such fictitious
5 names the true names and capacities of said fictitiously named defendants.

6 **C. The Property**

7 10. The Property consists of three separate bungalows with addresses commonly
8 known as 709, 711, and 711 ½ W. 54th Street in Los Angeles, California 90037. The
9 Property's legal description is "Lot 26 in Block B of the McCarthy Co.'s subdivision of the Major
10 Toberman Place Tract in the City of Los Angeles, County of Los Angeles, State of California,
11 as per maps recorded in Book 7, pages 172 of maps in the Office of the County Recorder of
12 said County," with Assessor's Parcel Number 5001-026-020.

13 **III. THE PUBLIC NUISANCE LAW**

14 11. Civil Code section 3479 defines a public nuisance as "[a]nything which is
15 injurious to health, including, but not limited to, the illegal sale of controlled substances, or is
16 indecent or offensive to the senses, or an obstruction to the free use of property, so as to
17 interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free
18 passage or use, in the customary manner, of any . . . public park, square, street, or highway . .
19 . ." (See *City of Bakersfield v. Miller* (1966) 64 Cal.2d 93, 99 ("The Legislature has defined in
20 general terms the word 'nuisance' in Civil Code section 3479. . . .").)

21 12. Civil Code section 3480 defines a public nuisance as "one which affects at the
22 same time an entire community or neighborhood, or any considerable number of persons,
23 although the extent of the annoyance or damage inflicted upon individuals may be unequal."

24 13. In particular, gang activity, such as drug dealing, loitering, consumption of alcohol
25 and illegal drugs, and boisterous conduct which creates a "hooligan-like atmosphere"
26 constitutes a public nuisance. (*People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1120.)

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1 14. Civil Code section 3491 provides for the methods by which public nuisances
2 such as those alleged herein may be abated. Civil Code section 3491 states that the
3 "remedies against a public nuisance are indictment or information, a civil action or abatement."
4 Abatement is "accomplished by a court of equity by means of an injunction proper and suitable
5 to the facts of each case." (*Sullivan v. Royer* (1887) 72 Cal. 248, 249; see also *People v.*
6 *Selby Smelting and Lead Co.* (1912) 163 Cal.84, 90 ("[I]n California, the rule is well established
7 that in proper cases injunctive relief which accomplishes the purposes of abatement without its
8 harsh features is permissible.").)

9 15. Code of Civil Procedure section 731 authorizes a city attorney to bring an action
10 to enjoin or abate a public nuisance. It provides in relevant part "[a] civil action may be brought
11 in the name of the people of the State of California to abate a public nuisance . . . by the city
12 attorney of any town or city in which such nuisance exists."

13 16. Where "a building or other property is so used as to make it a nuisance under the
14 statute, the nuisance may be abated . . . , notwithstanding that the owner had no knowledge
15 that it was used for the unlawful purpose constituting a nuisance." (*People ex rel. Bradford v.*
16 *Barbiere* (1917) 33 Cal.App. 770, 779; see also *Sturges v. Charles L. Harney, Inc.* (1958) 165
17 Cal.App.2d 306, 318 ("a nuisance and liability therefore may exist without negligence"); *People*
18 *v. McCadden* (1920) 48 Cal.App. 790, 792 ("A judgment supported on findings that such
19 nuisance was conducted and maintained on the premises in question, regardless of the
20 knowledge of the owner thereof, is sufficient. Such knowledge on the part of the owner . . . is
21 unnecessary."); *People v. Peterson* (1920) 45 Cal.App. 457, 460 ("[I]t was not necessary . . .
22 for the trial court to find either, that the [defendants] threatened, and unless restrained, would
23 continue to maintain, aid, and abet, the nuisance, or that they knew the building was used in
24 violation of the act. . . . The existence of the nuisance was the ultimate fact in this case, and
25 having been found, supports the judgment.").) This is because "the object of the act is not to
26 punish; its purpose is to effect a reformation of the property itself." (*People v. Bayside Land*
27 *Co.* (1920) 48 Cal.App. 257, 261.)

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IV. UNFAIR COMPETITION LAW

17. The practices forbidden by California's Unfair Competition Law at Business and Professions Code section 17200 *et seq.* include any practices forbidden by law, be they criminal, federal, state, municipal, statutory, regulatory or court-made. As the California Supreme Court has explained, the UCL "borrows violations of other laws and treats them as unlawful practices independently actionable under section 17200 *et seq.*" (*South Bay Chevrolet v. General Motors Acceptance Corp.* (1999) 72 Cal.App.4th 861, 880 (internal citations and quotation marks omitted).)

18. As proscribed by the UCL, "[a]n 'unlawful business activity' includes anything that can properly be called a business practice and that at the same time is forbidden by law." (*People v. McKale* (1979) 25 Cal.3d 626, 632.) Moreover, the UCL casts a broad net. "Any person performing or proposing to perform an act of unfair competition may be enjoined" (Bus. & Prof. Code, § 17203.) The term "person" includes "natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons." (Bus. & Prof. Code, § 17201.) The courts have expanded section 17200's net beyond direct liability to include common law doctrines of secondary liability where the liability of each defendant is predicated on his or her personal participation in the unlawful practices. (*People v. Toomey* (1985) 157 Cal.App.3d 1, 14; *Emery v. Visa Int'l Service Ass'n* (2002) 95 Cal.App.4th 952, 960.)

19. Civil actions under the UCL may be brought in the name of the People of the State of California by any city attorney of a city having a population in excess of 750,000 (Bus. & Prof. Code, § 17204), such as the City of Los Angeles. A public entity can sue pursuant to section 17200 based on violations of its own municipal code, state law, or other local ordinance. (*People v. Thomas Shelton Powers, M.D., Inc.* (1992) 2 Cal.App.4th 330, 338-339.)

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1 20. Defendants engaging in violations of the UCL may be enjoined in any court of
2 competent jurisdiction. (Bus. & Profs. Code, § 17203.) A court may make such orders or
3 judgments, including appointment of a receiver, as may be necessary to prevent the use or
4 employment by any person of any practice constituting unfair competition. (*Id.*)

5 21. Although no case has specifically been called upon to define the term "business"
6 in section 17200, courts have frequently given a broad reading to the provisions of the UCL so
7 as to effect its broad remedial purposes. (See, e.g., *Barquis v. Merchants Collection Ass'n*
8 (1972) 7 Cal.3d 94, 111-113.) An enterprise engaged entirely in criminal conduct such as the
9 manufacture of illegal drugs or obscene matter is a business for purposes of section 17200.
10 (*People v. EWAP, Inc.* (1980) 106 Cal.App.3d 315, 320-321.) Moreover, recent amendments
11 to section 17200 make clear that even a one-time act of misconduct can constitute a violation
12 of the UCL. (*Klein v. Earth Elements, Inc.* (1997) 59 Cal.App.4th 965, 969.)

13 22. Further, the ownership and operation of rental units is, axiomatically, a business.
14 (*See People ex rel. City of Santa Monica v. Gabriel* (2010), 186 Cal.App.4th 882, 888 ("The
15 renting of residential housing is a business."); see also *Barquis v. Merchants Collection Ass'n*,
16 (1972) 7 Cal.3d 94, 111-113 (giving a broad meaning of the UCL so as to effect its broad
17 remedial purposes).) Thus, when a property owner conducts, maintains or permits a nuisance
18 that is unlawful under the NAL and/or PNL to exist on the premises of such a business, it is a
19 violation of the UCL. (See *San Francisco v. Sainez* (2000) 77 Cal.App.4th 1302, 1323.)

20 **V. FIRST CAUSE OF ACTION FOR PUBLIC NUISANCE**

21 **[Civil Code Section 3479, et seq. --**

22 **Against All Defendants and DOES 1 through 50]**

23 23. Plaintiff incorporates by reference Paragraphs 1 through 22 of this Complaint and
24 makes them part of this First Cause of Action as though fully set forth herein.

25 24. For at least the past three years, Defendant and DOES 1 through 50 have
26 owned, operated, occupied, used, and/or directly or indirectly permitted to be occupied and
27 used, the Property in such a manner as to constitute a public nuisance in violation of Civil
28 Code sections 3479 and 3480. The public nuisance, as described herein, is injurious to health,

1 indecent or offensive to the senses, and/or an obstruction to the free use of property, so as to
2 substantially and unreasonably interfere with the comfortable enjoyment of life or property by
3 those persons living in the surrounding community. The public nuisance connected to the
4 Property consists of, but is not limited to: the presence of illegal firearms; shootings; the
5 threatening and disorderly presence of gang members; and vandalism, which includes tagging
6 of gang graffiti on the Property as well as the destruction of personal property.

7 25. Defendant and DOES 1 through 50 in owning, conducting, maintaining, and/or
8 permitting the use of the Property, directly or indirectly, as a public nuisance, have engaged in
9 wrongful conduct and caused a serious threat to the general health, safety and welfare of the
10 persons in the area surrounding the Property.

11 26. Unless Defendant and DOES 1 through 50 are restrained and enjoined by order
12 of this Court, they will continue to use, occupy and maintain, and to aid, abet or permit, directly
13 or indirectly, the use, occupation, and maintenance of the Property, together with the fixtures
14 and appurtenances located therein, for the purpose complained of herein, to the great and
15 irreparable damage of Plaintiff and in violation of California law.

16 **VI. SECOND CAUSE OF ACTION FOR UNFAIR COMPETITION**

17 **[Business and Professions Code Section 17200, *et seq.* --**

18 **Against All Defendants and DOES 1 through 50]**

19 27. Plaintiff hereby incorporates by reference paragraphs 1 through 26 of this
20 Complaint and makes them part of this Second Cause of Action, as if fully set forth herein.

21 28. Ownership and rental of residential housing, such as the Property, is a business.
22 When the owner of such a business violates the PNL such that a nuisance exists and
23 flourishes at the business' premises, as set forth herein, it is also a violation of the UCL.

24 29. Defendant and DOES 1-50 have violated the UCL by engaging in the following
25 unlawful or unfair business acts and practices: conducting, maintaining and/or permitting,
26 directly or indirectly, conducting, maintaining and/or permitting, directly or indirectly, gang-
27 related, criminal, and/or nuisance activity at the Property, as alleged herein, in violation of the
28 PNL.

30. Plaintiff has no adequate remedy at law, and unless Defendant and DOES 1-50 are restrained by this Court and a receiver is appointed to manage the Property, they will continue to commit unlawful business practices or acts, thereby causing irreparable injury and harm to the public's welfare.

PRAYER

WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT ORDER, ADJUDGE AND DECREE AS FOLLOWS:

AS TO THE FIRST CAUSE OF ACTION

1. That the Property, together with the fixtures and moveable property therein and thereon, be declared a public nuisance and be permanently abated as such in accordance with California Civil Code section 3491.

2. That each Defendant and her agents, officers, employees and anyone acting on her behalf, and her heirs and assignees, be preliminarily and perpetually enjoined from operating, conducting, using, occupying, or in any way permitting the use of the Property as a public nuisance. Such orders should include, but not be limited to physical and managerial improvements to the Property such as, without limitation, an internet-connected video monitoring system accessible by LAPD, improved lighting, sufficiently secure gating and fencing, improved screening of tenants, the prompt removal of graffiti, and the prohibition of known gang members from accessing the Property; the appointment of a receiver to carry out the Court's orders; and such other orders as are appropriate to remedy the nuisance on the Property and enhance the abatement process.

3. Such costs as may occur in abating said nuisance at the Property and such other costs as the Court shall deem just and proper.

4. That Plaintiff be granted such other and further relief as the Court deems just and proper, including closure and/or demolition of the Property.

AS TO THE SECOND CAUSE OF ACTION

1. That each Defendant be declared in violation of Business and Professions Code section 17200.

1 2. That each Defendant, as well as her agents, heirs, successors, and anyone
2 acting on her behalf, be permanently enjoined from maintaining, operating, or permitting any
3 unlawful or unfair business acts or practices in violation of Business and Professions Code
4 section 17200.

5 3. That the Court grant a preliminary and/or permanent injunction prohibiting each
6 Defendant, as well as her agents, heirs, successors, and anyone acting on her behalf, from
7 engaging in the unlawful or unfair acts and/or practices described herein at the Property and in
8 the City of Los Angeles. Such orders should include physical and managerial improvements to
9 the Property.

10 4. That, pursuant to Business and Professions Code section 17206, each
11 Defendant be assessed a civil penalty of \$2,500 for each and every act of unfair competition.

12 5. That, pursuant to the Court's equitable power and Business and Professions
13 Code section 17203, the Court make such orders or judgments, including appointment of a
14 receiver, to eliminate the unlawful or unfair competition alleged herein.

15 AS TO ALL CAUSES OF ACTION

16 1. That Plaintiff recover the amount of the filing fees and the amount of the fee for
17 the service of process or notices which would have been paid but for Government Code
18 section 6103.5, designating it as such. The fees may, at the Court's discretion, include the
19 amount of the fees for certifying and preparing transcripts.

20 2. That Plaintiff be granted such other and further relief as the Court deems just and
21 proper.

22 DATED: March 29, 2017

Respectfully submitted,

23 MICHAEL N. FEUER, City Attorney
24 MARY CLARE MOLIDOR, Chief, Crim. & Spec. Lit. Branch
25 JONATHAN CRISTALL, Superv. Assist. City Attorney
26 NANCY C. HAGAN, Deputy City Attorney

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STATE OF CALIFORNIA